



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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MEMORANDUM

TO: The Commission

FROM: Christopher Hughey
Acting General Counsel

Kathleen M. Guith
Acting Associate General Counsel
for Enforcement

Susan L. Lebeaux
Acting Deputy Associate General Counsel
for Enforcement

BY: Mark Allen *MA*
Assistant General Counsel

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Attorney

SUBJECT: MUR 6326 (American Association of Physician Specialists, Inc., *et al.*)

RE: Pre-Probable Cause Conciliation

Attached is a signed conciliation agreement negotiated with the American Association of Physician Specialists, Inc. ("AAPS"), and American Association of Physician Specialists, Inc. PAC and Stephen Montes, in his official capacity as treasurer ("the Committee"). See Attachment 1. AAPS and the Committee admit to the violations, agree to pay a civil penalty of \$5,500, and the Committee agrees to amend its disclosure reports to disclose the transactions described in the conciliation agreement.

The only substantive change in the final agreement is the removal of William J. Carbone, the Chief Executive Officer of AAPS, from the agreement. The Commission found reason to believe that Mr. Carbone violated 2 U.S.C. § 441b(a) based on the available information that he had consented to the transfer of funds from AAPS to

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1 the Committee that constituted a corporate contribution.
2 Respondents provided new information establishing that Mr. Carbone did not consent to the
3 transfer and did not learn of the transfer until after it occurred. According to a sworn affidavit
4 from Anthony Dumata, the Director of Finance and Operations for AAPS, he acknowledged that
5 he authorized the transfer from AAPS to the Committee, and that Mr. Carbone "did not give
6 prior authorization, permission, approval or agreements to the transfer of funds," and did not
7 learn of the transfer until after it occurred. See Durante Affidavit at ¶ 2 and ¶ 3 (Attachment 2).
8 Based on this new information, we recommend that the Commission accept the attached signed
9 conciliation agreement with the American Association of Physician Specialists Inc., the
10 American Association of Physician Specialists Inc. PAC and Stephen Montes, in his official
11 capacity as treasurer, containing full admissions from AAPS and the Committee for violations of
12 section 441b(a) as well as an admission by the Committee for its violation of section 434(b),
13 We also recommend that the
14 Commission take no further action as to William J. Carbone, and close the file.

15
16 **RECOMMENDATIONS:**

- 17
18 1. Accept the attached conciliation agreement with the American Association of Physician
19 Specialists, Inc., and the American Association of Physician Specialists, Inc. PAC and
20 Stephen Montes, in his official capacity as treasurer.
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22 2. Take no further action as to William J. Carbone.
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24 3. Approve the appropriate letters.
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26 4. Close the file.
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